



South Centre Inputs on 2025-2029 Work Program of the UN Tax Committee

The United Nations (UN) Secretary-General [appointed a new Membership of the UN Tax Committee](#) to hold office from 2025-2029. This includes Members nominated by Brazil, Cambodia, Dominican Republic, India, Jamaica, Liberia, Nigeria and Sierra Leone (all of them are members States of the South Centre). The Committee will hold its first meeting in October in Geneva, Switzerland, and will decide, among other things, the issues they should work on during the tenure of the new members. The Committee also issued a [call for inputs](#) to stakeholders to help shape this agenda.

To ensure that the four-year agenda contains topics of importance to South Centre Member States and developing countries more generally, the South Centre made a submission to the Committee which is reproduced below.

WORK PROGRAM PRIORITIES

The South Centre recommends the following issues as priorities for the UN Tax Committee (henceforth 'UNTC') for the years 2025-2029.

New Nexus Rules

The digitalization of the economy has dramatically expanded opportunities to derive income from a jurisdiction without requiring physical presence. This has posed challenges for all countries, including developing countries, as existing nexus rules in tax treaties are insufficient as they are premised on physical presence. Some South Centre (SC) Member States like India, Nigeria and Colombia have established new nexus rules through "Significant Economic Presence" (SEP) domestic laws. However, these continue to run into barriers in the case of tax treaties that do not have an equivalent provision and hence override domestic law through their outdated requirement of physical presence-based nexus.

Guidance by the UNTC on such new nexus rules which do not require physical presence will be helpful for other SC Members and other developing countries to undertake similar measures and to renegotiate their existing tax treaties by inserting the provision. It can also feed into ongoing discussions on the UN Framework Convention on International Tax Cooperation (UN FCITC).

The guidance can take the form of an update to the UN Model Tax Convention (UN MTC) in this respect. We acknowledge that a discussion on this matter took place already, which resulted in Articles 12AA and 12B. However, it can be explored further.



Formulaic Apportionment Methods

SC Members who have introduced SEP rules also face difficulties in how to attribute profits. The existing arm's length principle has largely broken down in the context of the digitalization of the economy and is unsuitable. A new profit allocation method is required, in particular, to attribute profits to jurisdictions on income from cross-border services.

Article 12AA of the UN MTC provides a valuable solution; however, this is restricted to gross basis withholding taxes. Article 12B's net method of fractional apportionment is also valuable, though it is limited to automated digital services. A more general profit attribution solution for income derived from cross-border services is required.

The UNTC can explore formulaic apportionment methods building on fractional apportionment as contained in Article 12B and formulary apportionment as contained in Amount A of the OECD's Pillar One and the Under Taxed Payments Rule in the Global Minimum Tax.

Since the guidance on such methods is meant to address existing treaty barriers and apply to a broad scope of services, it can take the form of an update to the UN Model Tax Convention, with Article 12AA as an obvious starting point.

Guidance on Administration of Fractional Apportionment

Article 12B's net method as mentioned provides a valuable and pioneering method of fractional apportionment for computing net profits from automated digital services. Article 12B has already begun entering into existing tax treaties, with SC Member Tanzania already including it in some of its treaties.

Since this method will have to be practically implemented by both taxpayers and tax administrations, guidance on how to apply 12B's net method will be helpful. This can take the form of a Toolkit similar to the [Transfer Pricing Compliance Toolkit](#) or Guidance similar to the [Interstitial Guidance on Transfer Pricing of Agricultural Products](#).

Guidance on Withholding Rates that Approximate Net Profits

For many SC Members, gross basis withholding taxes remain the preferred option for taxing income from cross-border services. However, this has the standard problem of over or under taxation.

Guidance from the UNTC on how such withholding taxes can approximate net profits on income from services will be very useful for SC Members. This can include guidance on how policymakers can do such estimations using the data available to them to set appropriate rates.



Remote Workers

Another ramification of the digitalized economy, especially post-COVID, has been the “Work From Anywhere” / “Work From Home” mode of remote working. This has thrown up questions of how workers are taxed and how to address situations in which they may result in potential double or non-taxation.

While some discussions took place in this regard on updating Article 15 of the UN MTC, they have not concluded and a solution to the underlying issue is still required.

Guidance on Joint Audits and Risk Assessments

Most SC Members, and developing countries in general, have very limited experience in conducting joint audits. This is despite the existence of tools such as Article 27 of the UN MTC. They also have limited experience in conducting coordinated risk assessments. Both joint audits and coordinated risk assessments can significantly prevent tax disputes, as it is clear by the experience of the developed countries who are more advanced in this area.

The UNTC can produce guidance, building on the experience of developed countries, on how all countries, including developing countries, can actually carry out joint audits and coordinated risk assessments. This can take the form of a toolkit or, given that it is a complex issue, can even become a Handbook.

Public Central Database for Country by Country Reports

The South Centre’s recommendation for the creation of a public Country by Country Reporting (CBCR) database has been included in the *Compromiso de Sevilla*, the UN FFD4 Outcome Document, [under para 28 \(f\)](#). There is now a global high level political commitment for evaluating the creation of a central public CBCR database. Such a database can deal a decisive blow against tax avoidance and evasion, by making transparent the tax paid by MNEs in each country where they operate. It can help developing countries more easily identify potential tax avoiders and, if multiple countries are affected by the same MNE, it can enable them to take collective action against the offender. This can strengthen coordinated risk assessments and joint audits.

The UNTC can produce a blueprint of what such a public CBCR database can look like. This can also feed into ongoing negotiations on the dispute prevention and resolution protocol of the UN FCITC.

Transfer Pricing Comparables Database

Despite the limited efficacy, extreme complexity, subjectivity, frequent abuse and dispute-prone nature of the arm’s length principle, the reality is that it is still the default method for allocating MNE profits. It is also unlikely to disappear overnight



and be replaced by alternatives. Further, it is not a total failure as it works in a few, limited cases.

Thus, given this reality, some work can be undertaken to improve transfer pricing so that developing countries can address daily profit shifting caused by the arm's length principle. One major barrier faced by developing countries is in accessing comparable information. The essence of transfer pricing is comparison to assess whether the transaction was at arm's length. This data is difficult to find and while there are databases available, they are usually prohibitively expensive and often unrepresentative of Global South markets. This in practice limits the ability of many developing countries, particularly SC Members, in doing transfer pricing, and thus renders them defenseless against profit shifting through manipulation of related party transactions.

For this reason, the South Centre had [recommended](#) that the UN create a public and freely available transfer pricing database so governments can more effectively carry out transfer pricing audits and adjustments. It would also address the limitations of current databases which are unrepresentative of many Global South markets and controlled by an oligopoly of US credit rating agencies which face virtually no regulation either domestically or internationally.

The UNTC can create a blueprint of what such a database can look like. This can also feed into ongoing negotiations on the proposed dispute prevention and resolution protocol of the UN FCITC.

Dispute Resolution Treaty

Many SC Members, and developing countries in general, have a limited treaty network. This limits their ability to resolve cross-border tax disputes through treaty-based solutions like the Mutual Agreement Procedure mechanism.

For this reason, the South Centre had [recommended](#) that the UN FCITC's second protocol can contain a treaty-based solution exclusively devoted to resolving tax disputes. This can have the advantage of giving a treaty-based solution to all its signatories, including countries who do not have a bilateral tax treaty. It can be designed to facilitate both multilateral and bilateral dispute resolution. Further, countries will not need to get into the contentious question of negotiating taxing rights as is the case during standard tax treaty negotiations.

A treaty on this matter can incorporate design elements from the Scope Review Panel and Review Panels as elaborated in Article 25 of the draft Amount A Multilateral Convention. The basic design principle of these Panels is that if an MNE is operating in multiple countries, then those countries setup a panel to prevent and resolve disputes.



The UNTC can therefore produce the draft of such a treaty. Such a treaty will have tremendous value for all countries, including SC Members and other developing countries, independent of the UN FCITC negotiations.

Guidance on Joint Action to Counter Treaty Shopping

Aggressive tax avoidance involving treaty shopping continues to harm SC Members who struggle to enforce existing tools like Article 29 of the UN MTC. In general, this is a difficult task for a country to do individually, and lack of information access, particularly CBCR, makes this more difficult. Collective action by countries can strengthen the fight against treaty shopping.

The UNTC can produce practical guidance on how affected countries can take joint actions to counter treaty shopping. This can take the form of an “End-to-End” Toolkit, similar to the UN Transfer Pricing Compliance Toolkit. Existing best practices and successful case studies will further enrich such guidance.

Further Guidance on Wealth Taxes

Addressing tax evasion and avoidance by high net worth individuals is another priority of several SC Members, notably Brazil and Colombia. We welcome the UN Handbook on Wealth and Solidarity Taxes produced by the previous Membership of the UNTC, which the South Centre was proud to contribute to. We believe this is a valuable tool for all countries to address tax evasion and avoidance by high net worth individuals.

Building on this impactful work of the UNTC, and acknowledging also the valuable inputs provided earlier by the Tax Justice Network, we would like to suggest that the UNTC produce guidance on the following critical issues:

Enforcement of Capital Income Taxes

Several SC Members struggle to enforce taxes on capital income such as dividends, interest and royalties. The taxation of dividends, in particular, is extremely complex and often involves treaty shopping as a tax avoidance strategy. Guidance on how capital income taxes can be effectively enforced will be helpful for SC Members and developing countries in general.

Guidance on Implications of Omitting Article 22

Some developing countries have adopted the practice of omitting taxes on capital (article 22 of the UN MTC) from the scope of their tax treaties and of only applying taxes on income. By not including Article 22, there is the possibility that source states may lose taxing rights on certain capital items with sufficient nexus. Further, it may also mean residence states do not need to give relief for double taxation if they are



levying a residence-based net wealth tax. The UNTC can give guidance to inform countries, and especially developing countries, on the consequences of this omission.

Guidance on Deduction of Debt

Paragraph 7 of the OECD Model Commentary on Article 22 (which is also cited in the UN Model Commentary on Article 22) provides that this article does not provide rules on the deduction of debts because the laws of countries are too diverse to find a common solution. This reasoning is unconvincing as the objective of a guidance is not to give a one-size fits all solution but to give tools to countries to use as they see fit. Countries who feel the guidance is irrelevant are free to ignore it.

The UNTC can therefore consider producing model treaty provisions on both valuation and the deduction of debt in relation to capital taxes. These provisions do not necessarily need to be included in the Model text of Article 22. As provisions in the Commentary on Article 22, they can serve as important tools for those countries interested in adopting a net wealth tax and doing so in way that avoids cross-border disputes.

UN Estate Tax Model Law

The UN Handbook on Wealth and Solidarity Taxes states that taxes on the transfer of wealth in the form of gift taxes, inheritance taxes and estate taxes, are an important policy instrument to tax wealth. Some countries have signed inheritance tax agreements that deal with conflicts that arise in case both states assert tax claims on assets in the estate.

The UNTC can produce a UN Estate Tax Model Law which can help countries negotiate or renegotiate such inheritance tax agreements.
